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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,149	02/08/2001	David Charles Lyons	12929.1062US01	7449

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EXAMINER

YEUNG, JAMES C

ART UNIT 3743 PAPER NUMBER 6

DATE MAILED: 12/07/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/781,149</b>	Applicant(s) <b>Lyons et al.</b>
Examiner <b>James C. Yeung</b>	Art Unit <b>3743</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Feb 8, 2001

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-26 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-26 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 and 5      20)  Other: \_\_\_\_\_

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**DETAILED ACTION**

*Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 120 (page 9, line 18). Correction is required.

*Specification*

2. The disclosure is objected to because of the following informalities: "150" (first occurrence should be changed to -- 136 --; and "150" (second occurrence) should be changed to -- 120 --. Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Bleach (U.K. Pat. 2179438). The structure is fully anticipated by Bleach (note element 12, fig. 1 and/or page 1, lines 122-126).

5. Claims 1-6, 9 and 19-22, are rejected under 35 U.S.C. 102(b) as being anticipated by Shimek '743 (prior art cited by applicants). The structure is fully anticipated by Shimek '743 (note element 12, fig. 4 and/or col. 4, line 48).

6. Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Shimek '237 (prior art cited by applicants). The structure is fully anticipated by Shimek '237 (note element 14, 28 and 29, fig. 3).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7-8, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable of Shimek '743 (prior art cited by applicants) in view of Arribas (France Pat. 2629178).

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Arribas teaches the use of a burner panel having at least one performed log (2a and 2b, fig. 2) for the purpose of simulating a solid-fuel gas fire.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a portion of the burner panel (12, fig. 4) of Shimek '743 into at least one performed log such as taught by Arribas in order to simulate a solid-fuel gas fire.

9. Claims 10- 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimek '743 (prior art cited by applicants) in view of Hussong.

Shimek '743 discloses the invention substantially as claimed. However, Shimek '743 does not disclose a combustion chamber bottom panel.

Hussong teaches the use of a burner panel (34, fig. 4) having a combustion chamber bottom panel (66, fig. 4) for the purpose of forming a bottom panel of a combustion chamber of a gas fireplace unit.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the burner panel (12, fig. 4 ) of Shimek '743 with a combustion chamber bottom panel such as taught by Hussong in order to form a bottom panel of a combustion chamber of a gas fireplace unit.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Thornton (U.K. Pat. 429115) is cited to show in fig. 17 a burner panel (B) having a plurality of cavities (A).

Dudgeon is cited to show a gas fire having at least one cavity (note fig. 2).

Wright is cited to show a gas burner for a solid fuel effect gas fire.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Yeung whose telephone number is (703) 308-1047. The facsimile phone number for this Art Unit is (703) 308-7764.

JY  
December 5, 2001

  
James C. Yeung  
Primary Examiner